These are the tentative rulings for civil law and motion matters set for Tuesday, June 30, 2015, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, June 29, 2015. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: Effective July 1, 2014, all telephone appearances are governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER MICHAEL A. JACQUES AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 40, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

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1. M-CV-0059951 Buisson, Linda Jean Styve vs. Deloach, Nancy Ann, et al

Plaintiff's Motion to Enforce Injunctive Relief is continued to July 7, 2015, at 8:30 a.m. in Department 40.

Following a court trial in August and September 2014, judgment was entered in favor of plaintiff on December 23, 2014, on her claims of quiet title, declaratory relief, and injunctive relief. For purposes of the claim for injunctive relief, the judgment provided that defendants were to undertake all acts necessary to remove all clouds on title to the subject real property caused by the filing of documents with the county recorder by defendants, within 90 days of service of notice of entry of the judgment. Defendants were served with notice of entry of judgment on February 9, 2015.

Defendants have appealed the judgment, and the appeal is pending. Defendants previously sought a stay of proceedings pending appeal pursuant to Code of Civil Procedure section 917.3, which provides that if the judgment appealed from directs execution of one or more instruments, the perfecting of an appeal does not stay enforcement of the judgment unless those instruments are executed and deposited with the clerk of the court. Defendants' motion was denied as defendants failed to demonstrate that the documents submitted in connection with the motion satisfied the requirements of the judgment. The court notes that plaintiff now appears to agree that three documents presented to the court on April 21, 2015, would have been sufficient to satisfy the requirements of the judgment.

In opposing this motion, defendants now contend that Code of Civil Procedure section 917.3 does not apply because the court's judgment only requires them to undertake all acts

necessary to remove all clouds on title to the subject real property, but does not direct execution of specific instruments. The court does not find this argument to be persuasive, as removal of all clouds on title necessarily requires defendants to execute and record certain identifiable documents. Code of Civil Procedure section 916 provides that "[e]xcept as provided in Sections 917.1 to 917.9, inclusive, and in Section 116.810, the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from…" As the court finds that section 917.3 does apply in this case, defendants' perfection of their appeal did not automatically stay proceedings.

Plaintiff requests an order requiring defendants to immediately provide original executed documents sufficient to satisfy the judgment. It is unclear how such an order assists plaintiff, given that a judgment already exists with which defendants are bound to comply. Alternatively, plaintiff requests that the clerk of the court be directed to execute the required documents on defendant's behalf. Such a remedy is appropriate where a party fails to comply with the terms of an order requiring them to sign particular documents. *Blueberry Properties, LLC v. Chow* (2014) 230 Cal.App.4th 1017.

Nevertheless, in light of plaintiff's concession that defendants previously presented documents sufficient to comply with Code of Civil Procedure section 917.3, a problematic circumstance results if plaintiff is permitted obtain an order directing the clerk of the court to execute and deliver the very documents that defendants previously presented in connection with their request for a stay. For this reason, this hearing shall be continued to July 7, 2015, at 8:30 a.m. in Department 40. At the time of the hearing, defendants shall be permitted to demonstrate compliance with Code of Civil Procedure section 917.3 by lodging with the clerk of the court executed instruments in recordable format which the parties have agreed are sufficient to satisfy the judgment in this action. Absent a showing of such compliance, the court will grant the appropriate relief to plaintiff.

2. M-CV-0062181 Kaniu, Sam G. vs. Lee, Darla

Defendant's unopposed Motion for Terminating Sanctions is granted.

Based on plaintiff's failure to comply with his discovery obligations, the court granted an unopposed motion to compel responses to discovery on April 7, 2015, ordering plaintiff to serve responses to discovery by no later than April 24, 2015. Plaintiff has failed to comply with the court's order to serve discovery responses, and did not respond to meet and confer efforts by defendant. Based on plaintiff's misuse of the discovery process, terminating sanctions are warranted. Code Civ. Proc.§ 2023.030(d)(3). Plaintiff's complaint is hereby dismissed.

3. M-CV-0063247 Bank of New York Mellon vs. Larios, Maria et al

Appearance required on June 30, 2015, at 8:30 a.m. in Department 40.

A motion for summary judgment in an unlawful detainer action may be brought at any time after the answer is filed upon five days notice. Code Civ. Proc. §1170.7. The party seeking summary judgment bears the burden of showing there is no triable issue of material fact and that

the party is entitled to judgment as a matter of law. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850. The moving party has the burden of showing, by affidavit, facts establishing every element necessary to sustain a judgment in favor of the party. *Consumer Cause, Inc. v. Smilecare* (2001) 91 Cal.App.4th 454, 468. Once a plaintiff proves its prima facie case, the burden of proof shifts to the defendant to prove material facts. Code Civ.Proc. §437c(p)(1).

To prevail in an action for unlawful detainer following a foreclosure, plaintiff must show that (1) plaintiff purchased the property upon foreclosure and title following the foreclosure sale has been duly perfected; (2) defendant was served with a three-day written notice to quit the property; and (3) defendant continues in possession after expiration of the notice. Code Civ. Proc. § 1161a(b)(3).

Plaintiff provides evidence that it purchased the property at a trustee's sale and said title was duly perfected. (SSUMF 4,5.) Plaintiff also shows that defendants were served with a 90-day notice to quit and to vacate. (SSUMF 6.) Finally, plaintiff submits evidence that defendants remain on the property after the expiration of the notice. (SSUMF 7.)

As plaintiff has made a prima facie showing in support of summary judgment, the burden now shifts to the defendant. Therefore, the appearance of all parties is required at the hearing as defendant may appear to provide evidence of a triable issue of material fact either in writing or orally at the hearing. Cal. R. Ct., Rule 3.1351(b), (c).

4. S-CV-0031959 Spann, William vs. CBM-96, LLC, et al

Plaintiffs' unopposed Motion to Consolidate Actions is granted. Placer County Superior Court Case No. SCV-31959, *Spann v. CBM-96, LLC, et al.* is hereby consolidated with Placer County Superior Court Case No. SCV-36049, *Casper, et al. v. White Cap Coastal, Inc., et al.* Case No. SCV-31959 shall be the lead case.

5. S-CV-0033037 Bauer, Adolf, et al vs. Del Webb California Corporation

Financial Pacific Insurance Company's Motion for Leave to Intervene on behalf of cross-defendant Image Landscape, Inc. (erroneously sued as Image Landscape) is granted. Moving party shall file and serve its complaint-in-intervention on or before July 10, 2015.

6. S-CV-0033230 Crooke, John vs. Crossmark, Inc., et al

Defendants' Motion to Bifurcate and Motion for Summary Judgment, or, in the Alternative, Summary Adjudication are continued to July 23, 2015, at 8:30 a.m. in Department 40.

The court notes for the record that defendants seek summary adjudication of 56 issues. Many of the "issues" for which summary adjudication is sought are facially inappropriate as failing to completely dispose of the cause of action to which they are directed. Defendant's separate statement of undisputed material facts is 482 pages long. Plaintiff's response to defendant's separate statement is 2,638 pages long. These documents were clearly not drafted

with the goal in mind of "permit[ting] trial courts to expeditiously review complex motions for [summary adjudication] and summary judgment to determine quickly and efficiently whether material facts are undisputed." *See Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 251-252. The sheer volume of material, highly unusual for an employment discrimination case such as this, or even cases involving much more complex legal or factual issues, places an incredible burden on the court. For this reason alone, there is good cause to continue the motion hearing date.

Further, the court's record is incomplete. Defendants filed an Index of Evidence which references five declarations. However, the Index of Evidence in the court's file contains only the Declaration of Jordon Ferguson, and omits Exhibits 2-5. Plaintiff was apparently served with a complete index including all exhibits, even filing objections to some of the declarations that are missing from the court's file. For this reason, the court finds it appropriate to permit defendants the opportunity to remedy the problem. Defendants are ordered to file a supplemental index of evidence which includes only Exhibits 2-5, as referenced in the table of contents, within five court days of this ruling.

7. S-CV-0033669 Lisotta, Frank, et al vs. Cook, Henry, et al

Plaintiff's Motion to Amend the Complaint is denied.

The court may permit a party to amend its operative pleading in the furtherance of justice and on such terms as may be just. Code Civ. Proc. §§ 473(a)(1), 576. The moving party must comply with the requirements of California Rules of Court, rule 3.1324 when bringing a motion seeking leave to amend a pleading.

Plaintiff's motion fails to comply with California Rules of Court, rule 3.1324. Plaintiff fails to state what allegations are proposed to be added, and where by page, paragraph, and line number the additional allegations are located. Cal. R. Ct., rule 3.1324(a)(3). Plaintiff also fails to include a declaration specifying the effect of the amendments (Cal. R. Ct., rule 3.1324(b)(1)), why the amendments are necessary and proper (Cal. R. Ct., rule 3.1324(b)(2)), when the facts giving rise to the amended allegations were discovered (Cal. R. Ct., rule 3.1324(b)(3)), and the reasons why the request was not made earlier (Cal. R. Ct., rule 3.1324(b)(4)). Due to these deficiencies, the court is unable to assess whether the proposed amendments are necessary and proper.

8. S-CV-0034255 Heard, William vs. Ford Motor Company

The Motion for Order Granting Plaintiff's Spouse Linda Diane Heard as Successor in Interest to Plaintiff William Heard was continued by stipulation of the parties to July 21, 2015, at 8:30 a.m. in Department 40.

9. S-CV-0034321 Taylor, Ernest vs. Ramos, Cecilia, et al

Appearance required. Plaintiff is advised that his notice of motion must include notice of the court's tentative ruling procedures. Local Rule 20.2.3(C).

Plaintiff's Motion for Summary Judgment is denied.

There is no notice of plaintiff's motion in the court's file. Code Civ. Proc. § 1010; Cal. R. Ct., rule 3.1350(b). Defendants establish that they were not provided with adequate notice of the motion as required by Code of Civil Procedure section 437c(a), and no proof of service has been filed to rebut defendants' contention. The motion is not accompanied by a separate statement as required by Code of Civil Procedure section 437c(b)(1) and California Rules of Court, rule 3.1350(d). Further, no admissible evidence has been submitted in support of the motion. Code Civ. Proc. § 437c(b)(1).

10. S-CV-0034523 Butterfield, Robert v. Jordan, Jeannine

The Motion to Continue Trial is dropped in light of the settlement of the action.

11. S-CV-0034586 Epic HR, Inc. vs. Alves, Steven G.

All motions set for June 30, 2015, have been continued to July 9, 2015, at 8:30 a.m. in Department 40.

12. S-CV-0034655 Saldivar, Alfredo P. vs. Nortech Waste, LLC

The Motion for Judgment on the Pleadings is dropped in light of the dismissal filed June 12, 2015.

13. S-CV-0035111 Keon, Juli, et al vs. Sutter Medical Foundation, et al

Motion to Compel Supplemental Discovery Responses

Plaintiff Juli Keon's Motion to Compel Supplemental Discovery Responses is granted.

Plaintiff seeks further response to Form Interrogatory (Employment Law) No. 215.1, which seeks information regarding the identity of any individuals interviewed by defendant. Defendant Sutter Medical Foundation objected to this interrogatory on the grounds of attorney work product and attorney-client privilege, and has refused to provide further substantive response.

The parties' dispute focuses on the California Supreme Court case *Coito v. Superior Court* (2012) 54 Cal.4th 480. In *Coito*, the court held that a list of witnesses whom opposing counsel has chosen to interview may be subject to absolute or qualified work product protection. Plaintiff attempts to draw a distinction between a list of witnesses from whom statements were taken, and a list of witnesses who were merely "interviewed". However, the court finds no meaningful difference between such actions. The reasoning of *Coito* applies to the discovery request at issue.

In *Coito*, the court held that a list of witnesses from whom an attorney took statements might, in some instances, implicate either absolute or qualified work product. While noting that

"the interrogatory usually must be answered", the court added that an objecting party might be entitled to protection "if it can make a preliminary or foundational showing that answering the interrogatory would reveal the attorney's tactics, impressions or evaluation of the case, or would result in opposing counsel taking undue advantage of the attorney's industry or efforts." *Coito v. Superior Court, supra,* 54 Cal.4th at 502.

The declaration of counsel submitted in support of defendant's opposition states:

> In preparation of Sutter's defense, I and others in my firm have evaluated who to interview among the many people with information relevant to Keon's causes of action. I and others in my firm have made tactical judgments about who among the list of potential witnesses to interview for reasons pertinent to Sutter's defense. In determining which witnesses to interview, I and others in my firm have expended significant time and effort to determine who among the universe of Keon's former colleagues, subordinates, superiors, medical providers, and others are important enough to interview.

(Hodges decl., ¶ 7.)

In essence, counsel's declaration parrots the language of *Coito,* while providing the court with no factual foundation upon which to find that in this particular case, the usual requirement that the interrogatory be answered should give way to attorney work product protection. The court does not read *Coito* as holding that conclusory statements repeating the language of the case are sufficient to establish a preliminary or foundational showing that attorney work product protection should apply.

Based on the foregoing, plaintiff's motion is granted. Plaintiff's request for sanctions is denied, as the court finds that the motion was opposed with substantial justification.

Motion to Sever Case Pursuant to CCP § 1048

Defendants' Motion to Sever Case Pursuant to Code of Civil Procedure section 1048 is granted.

The trial court has the power to sever an action where the interest of justice requires. Code Civ. Proc. § 1048(b); *City of Sacramento v. Superior Court* (1962) 205 Cal.App.2d 398, 403. Severance may be warranted for convenience, to avoid prejudice, or when separate trials would be conducive to expedition and economy. In this case, four separate plaintiffs have filed a single complaint charging defendants with age discrimination, failure to prevent discrimination, failure to prevent harassment, wrongful termination, and hostile work environment harassment. Each plaintiff worked at a different facility, under a different direct supervisor, in varying positions, and were terminated or retired at various times under differing circumstances. Each plaintiff was over the age of 60 at the time of the actions alleged in the complaint, and allege that they were mistreated or fired due to the actions of defendant Joyce Swan. However, the evidence and witnesses related to each plaintiff's claims are distinct from each other. Plaintiffs point to very little overlapping evidence pertaining to more than one plaintiff's distinct causes of

action, except perhaps for defendant Sutter Medical Foundation's policies and procedures relating to termination of employment. Ultimately, for purposes of trial, the jury would be compelled to hear four separate cases, rather than one. Pursuant to Code of Civil Procedure section 1048(b), severance of this action is warranted.

Juli Keon, et al. v. Sutter Medical Foundation, et al., Case No. SCV-35111 shall be severed into four separate actions as follows:

1) Juli Keon v. Sutter Medical Foundation, et al., Case No. SCV-35111
2) Pam Bean v. Sutter Medical Foundation, et al., Case No. SCV-36271
3) Carla Cook v. Sutter Medical Foundation, et al., Case No. SCV-36272
4) Nancy Volz v. Sutter Medical Foundation, et al., Case No. SCV-36273

The first amended complaint and answer to first amended complaint filed in Case No. SCV-35111 shall be the operative pleadings for purposes of each of the severed cases. The current trial date and related settlement conference and civil trial conference dates set in this action are hereby vacated. **A case management conference for purpose of trial setting is set as to each of the four actions for July 28, 2015, at 10:00 a.m. in Department 40.**

The clerk is directed to place a copy of the minutes from this hearing in each of the four subject court files.

14. S-CV-0035205 Osborne, Jackie vs. Western Dental Services, Inc.

Defendant's Motion to Compel Deposition of Plaintiff is granted.

Defendant properly served plaintiff with notice of her deposition on March 9, 2015. Plaintiff's failure to receive the notice of deposition until March 29, 2015, is not the fault of defendant, but rather due to the fact that plaintiff does not retrieve mail from her post office box on a daily basis. Plaintiff did not check her post office box during the week prior to falling ill on March 18. Upon finally retrieving her mail on March 29, she contacted defense counsel to state that she was unavailable, but did not inform him at that time of any medical reasons for her refusal or inability to appear for her deposition.

Following plaintiff's non-appearance, defendant engaged in efforts to meet and confer regarding an agreeable date for the deposition. Plaintiff responded by stating that she could not travel for the deposition "for medical reasons" and asking to be permitted to appear telephonically. Defendant noted that it was not required to conduct the deposition telephonically, and that plaintiff had not substantiated her claim that she could not travel due to medical reasons. Defendant also offered additional dates for the deposition. Plaintiff did not respond.

Defendant is not required to acquiesce to plaintiff's demand that her deposition proceed telephonically. Nor does plaintiff provide good cause for such an order. Plaintiff's deposition was duly noticed, and she was obligated to appear. Even after the deposition date, defense

counsel attempted to meet and confer in good faith to re-schedule the deposition, which efforts were not reciprocated.

Plaintiff shall personally appear for her deposition within 20 days of the date of this ruling, at the location noticed by defendant. The parties are to meet and confer with respect to an agreeable date for the deposition to proceed.

Defendant is awarded sanctions from plaintiff in the amount of $500.

15. S-CV-0035355 Aspesi, Mark, et al vs. Safeway, Inc.

Request for Judicial Notice and Objections to Evidence

Defendant Safeway, Inc.'s request for judicial notice is granted. Evid. Code § 452(d).

Plaintiffs' Objection to Paragraph 7 of the Declaration of Jack Hutson is sustained. Plaintiffs' Objections to the Declaration of Anne Robinson are overruled.

Motion to Disqualify Counsel for Plaintiff

Defendant moves to disqualify counsel for plaintiff, Dreyer Babich Buccola Wood Campora, LLP ("Dreyer Babich"), on the grounds that a partner with Dreyer Babich previously represented defendant in similar matters.

An attorney must avoid representation of adverse interests, and cannot, "without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment." Rules Prof. Conduct, rule 3–310(E). In cases where an attorney successively represents clients with potential or actual adverse interests, the "governing test requires that the client demonstrate a 'substantial relationship' between the subjects of the antecedent and current representations" to obtain disqualification. *Flatt v. Superior Court* (1994) 9 Cal.4th 275, 282. Where a substantial relationship is demonstrated, "access to confidential information by the attorney in the course of the first representation (relevant, by definition, to the second representation) is *presumed* and disqualification of the attorney's representation of the second client is mandatory;...." *Id.* at 283 (emph. in orig.)

The evaluation of whether the two representations are substantially related centers upon the factual and legal similarities of the two representations. *Farris v. Fireman's Fund Ins. Co.* (2004) 119 Cal.App.4th 671, 679. "The substantial relationship test requires comparison not only of the legal issues involved in successive representations, but also of evidence bearing on the materiality of the information the attorney received during the earlier representation." *Khani v. Ford Motor Co.* (2013) 215 Cal.App.4th 916, 921.

In support of its motion, defendant submits the declarations of two claims adjusters, Jack Hutson and Anne Robinson. Mr. Hutson was a claims adjuster for defendant for over 30 years,

retiring in May 2009. As defendant's claims adjuster, Mr. Hutson states that he forwarded over 100 personal injury cases to Mr. Campora's former law firm. Mr. Hutson does not state how many such cases were forwarded to the former law firm prior to Mr. Campora's departure from the firm, and does not state how many of those cases involved facts and issues substantially similar to the facts and issues involved in the present case. Mr. Hutson states that he communicated personally with attorneys assigned to defend Safeway, Inc., and that such communications included information as to defendant's "position with regard to its defense of the claims", "litigation strategies, settlement strategies, trial strategies, legal advice, legal budgeting and budgeting constraints", and policies and procedures for maintenance, training, staffing, inspections and investigation of claims. Further, Mr. Hutson states that in the course of defending Safeway, Inc., Mr. Campora spoke with employees of defendant, and visited the locations of claimed incidents.

Ms. Robinson has been a claims adjuster for defendant for over 20 years. Ms. Robinson states that between 1989 and 2002, Mr. Campora's former law firm was retained for over 500 claims involving defendant, including personal injury cases. Ms. Robinson does not state how many of those cases involved facts and issues substantially similar to the facts and issues involved in the present case. Ms. Robinson states that in general, her discussions with defense counsel will involve communications about litigation strategies, settlement strategies, trial strategies, legal advice, and policies and procedures for maintenance, training and investigation of incidents. She further states that defense attorneys will speak with relevant employees of defendant. Finally, she states that at some point in the past, Mr. Campora's former law firm presented a training class on California law relating to various claims, including slip and fall claims.

Defendant bears the burden of establishing that any confidential information disclosed to Mr. Campora or his former firm prior to his departure from that firm in July 2002 would be material to his representation of plaintiffs in this action. *See Khani v. Ford Motor Co., supra,* 215 Cal.App.4th at 922; *Farris v. Fireman's Fund Ins. Co., supra,* 119 Cal.App.4th at 680. An attorney's acquisition of information about a former client's overall structure and practices, litigation philosophy or key decision makers does not by itself require disqualification unless a showing is made that such information is directly in issue or of critical importance in the second representation. *Farris v. Fireman's Fund Ins. Co., supra,* 119 Cal.App.4th at 680. The court cannot discern from the declarations provided that the litigation, settlement and trial strategies, and budgeting constraints relative to any litigation in which Safeway, Inc. was a defendant between 1988 and 2002, are material to counsel's current representation of plaintiffs given the distinct facts and legal issues presented in this particular action. There is no showing that defendant's strategies and/or budgeting as to prior cases have continued in existence unchanged for the past 13 years. There is no showing that employees or other witnesses whom Mr. Campora or others in his former law firm spoke with, prior to July 2002, are material to this action. There is no showing that stores that Mr. Campora or others visited, prior to July 2002, are involved in this action. There is no showing that the policies and procedures of defendant have continued in existence unchanged for the past 13 years, and such information would not be confidential in any event. A presentation on California law as it relates to hypothetical issues that might effect defendant in the future, given 15-20 years ago, does not support a finding of actual or presumed acquisition of confidential information material to the present representation.

Defendant suggests that a Sacramento County Superior Court order from an unrelated case in 2010 is relevant to the court's determination in this matter. The subject order granted defendant's motion to disqualify plaintiff's counsel in that action, but certainly cannot be construed as a blanket order forever prohibiting Dreyer Babich or Mr. Campora from litigating any slip and fall action against Safeway, Inc. The 2010 order is not binding or persuasive authority for purposes of the motion currently before this court.

Based on the foregoing, defendant's Motion to Disqualify Counsel for Plaintiff is denied.

16. S-CV-0035877 Zygarewicz, Sergio, et al vs. Price, Tim James, et al

The parties' requests for judicial notice are denied as the matters of which the court is requested to take judicial notice are not relevant to a determination of the present motion. Further, plaintiffs' request does not comply with California Rules of Court, rule 3.1306(c).

Defendants' Motion to Set Aside Default is granted. The proofs of service filed March 16, 2015, purport to establish substituted service upon defendants Tim Price and Angela Zygarewicz Price by service upon plaintiff Sergio Zygarewicz, co-resident of home in which all parties previously resided. Plaintiff's acting process server is also their son. Plaintiffs fail to show reasonable attempts to serve defendants personally before resorting to substituted service. Code Civ. Proc. § 415.20(b). Further, the manner in which substituted service was purportedly accomplished in this case, by plaintiff's son leaving the documents with plaintiff himself, is highly questionable, and cannot be considered "reasonably calculated to give an interested party actual notice of the proceedings and an opportunity be heard … [in order that] the traditional notions of fair play and substantial justice implicit in due process are satisfied." *Zirbes v. Stratton* (1986) 187 Cal.App.3d 1407, 1416 (cit. omit.)

Defendants' purported demurrer is overruled without prejudice. The demurrer must be filed separately and must comply with California Rules of Court, rule 3.1320.

Defendants shall file and serve their answer or other responsive pleading by no later than July 10, 2015.

17. S-CV-0036193 Jaysel Hitchcock Revocable Trust vs. Diamond K Estates

Plaintiffs' Motion to Appoint Attorney per 42 U.S.C. § 3613(b) is denied.

"[T]he general rule is that there is no due process right to counsel in civil cases. [Citation.] Generally, speaking, the right to counsel has been recognized to exist only where the litigant may lose his physical liberty if he loses the litigation." *Walker v. State Bar of Cal.* (1989) 49 Cal.3d 1107, 1116. Even if 42 U.S.C. § 3613(b) was applicable in this case, plaintiffs fail to make a showing of the financial inability to pay for counsel, and meritorious allegations of discrimination. *See Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1421 (10th Cir. 1992). Rather, plaintiffs' motion lists numerous reasons for the inability to retain counsel in this action, including that the contacted attorneys do not practice in this area, are too busy or feel the case is too complicated or that the case lacks merit, and finally, that "there's not enough money".

It is unclear whether this statement refers to money that would be paid for the attorney's services, or money that could be made from prevailing on the case. Regardless, this vague statement falls far short of adequately demonstrating that plaintiffs are financially unable to retain counsel by their own devices.

These are the tentative rulings for civil law and motion matters set for Tuesday, June 30, 2015, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, June 29, 2015. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.